

Appl. No.: 10/780,521  
Amdt. dated November 15, 2004  
Reply to Office action of September 13, 2004

### REMARKS/ARGUMENTS

In the Office Action dated September 13, 2004, Claims 1-28 are pending. Claims 16-28, previously withdrawn, are cancelled above. Claims 1-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,764,048 or claims 1-13 of U.S. Patent No. 6,758,411 in view of U.S. Patent No. 5,857,647. In addition, Claims 1-15 are rejected under 35 U.S.C. § 103(a) as being obvious over the '048 patent or claims 1-13 of the '441 patent in view of the '647 patent.

Regarding the double patenting rejection of Claims 1-15, Applicant is submitting with this Amendment a terminal disclaimer per 37 C.F.R. 1.121 to disclaim the terminal patent term that would extend beyond the expiration date of the full statutory terms of the '048 patent and the '411 patent. Accordingly, Applicant submits that the double patenting rejection is overcome and requests withdrawal of the rejection.

With regard to the rejection under 35 U.S.C. § 103(a), Applicant hereby submits that the present application and each of the '048 patent and the '411 patent were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, i.e., the assignee of the present application and each of the '048 and '411 patents. Accordingly, Applicant asserts that the rejection is overcome.

For the foregoing reasons, Applicant respectfully submits that each of the rejections is overcome, and therefore all of the pending Claims 1-15 are allowable and the application is in condition for allowance.

\* \* \* \*

### CONCLUSIONS

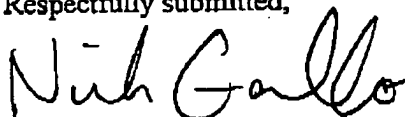
In view of the remarks presented above, Applicant submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the

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Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

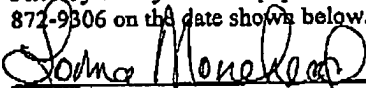


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**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (703) 872-9306 on the date shown below.

  
Lorna Morehead

November 15, 2004  
Date

CLT01/4680562v1